

APPEAL

U.S. District Court
United States District Court - District of New Mexico (Albuquerque)
CRIMINAL DOCKET FOR CASE #: 1:18-cr-03495-JCH-1

Case title: USA v. Smith

Date Filed: 10/23/2018

Magistrate judge case number: 1:18-mj-01581-SCY

Date Terminated: 11/10/2022

Assigned to: District Judge Judith C.
Herrera

Appeals court case number: USCA
22-2142 Tenth Circuit Court of Appeals

Defendant (1)**Douglas D Smith***TERMINATED: 11/10/2022*represented by **Aric G. Elsenheimer**

Federal Public Defender

Albuquerque Office

111 Lomas Blvd. NW

Suite 501

Albuquerque, NM 87102

505-346-2489

Fax: (505) 346-2494

Email: aric_elsenheimer@fd.org

*LEAD ATTORNEY**ATTORNEY TO BE NOTICED**Designation: Public Defender or**Community Defender Appointment***Amanda R. Lavin**

Federal Public Defender

111 Lomas Blvd

#501

Albuquerque, NM 87102

505-346-2489

Email: amanda_lavin@fd.org

*ATTORNEY TO BE NOTICED**Designation: Public Defender or**Community Defender Appointment***Thomas B Jameson**

Federal Public Defender Office

111 Lomas Blvd., NW, Suite 501

Albuquerque, NM 87102

505-346-2489

Fax: 505-346-2494

Email: nmabq-ecf@fd.org
TERMINATED: 09/27/2018
Designation: Public Defender or
Community Defender Appointment

Pending Counts

18:1152 and 1111: Second Degree Murder
(1)

Highest Offense Level (Opening)

Felony

Terminated Counts

None

Highest Offense Level (Terminated)

None

Complaints

18:1152 & 1111(a): Reckless disregard for
human life

Disposition

SENTENCE IMPOSED: CBOP: 27
months; Supervised Release: 2 years, with
Special Conditions; SPA: \$100

Disposition**Disposition****Plaintiff**

USA

represented by **Novaline Wilson**
United States Attorney's Office
201 Third Street NW
Suite 900
Albuquerque, NM 87102
505-346-7274
Fax: 505-346-7296
Email: novaline.wilson@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED
Designation: Retained

Kyle T Nayback
US Attorney's Office - ABQ
District of New Mexico
PO Box 607
Albuquerque, NM 87103
505-346-7274
Fax: 505-346-7296
Email: kyle.nayback2@usdoj.gov
ATTORNEY TO BE NOTICED

Designation: Retained

Date Filed	#	Docket Text
05/08/2018	<u>1</u>	NOTICE OF HEARING as to Douglas D Smith: Initial Appearance set for 5/8/2018 at 09:30 AM in Albuquerque - 320 Rio Grande Courtroom before Magistrate Judge Steven C. Yarbrough. (emr) [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] [1:18-mj-01581-SCY] (Entered: 05/08/2018)
05/08/2018	<u>2</u>	COMPLAINT as to Douglas D Smith (1). (eh) [1:18-mj-01581-SCY] (Entered: 05/08/2018)
05/08/2018		Arrest of Douglas D Smith. (eh) [1:18-mj-01581-SCY] (Entered: 05/08/2018)
05/08/2018	<u>3</u>	ORDER APPOINTING FEDERAL PUBLIC DEFENDER Thomas B Jameson for Douglas D Smith by Magistrate Judge Steven C. Yarbrough (emr) [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] [1:18-mj-01581-SCY] (Entered: 05/08/2018)
05/08/2018		Attorney update in case as to Douglas D Smith. Attorney Novaline Wilson for USA added. Attorney Kyle T Nayback terminated. (emr) [1:18-mj-01581-SCY] (Entered: 05/08/2018)
05/08/2018	<u>4</u>	Clerk's Minutes before Magistrate Judge Steven C. Yarbrough: Initial Appearance as to Douglas D Smith held; Preliminary/Detention Hearing set for 5/9/2018 at 09:30 AM in Albuquerque - 320 Rio Grande Courtroom; deft held in custody of USMS(Recording Info: Liberty - Rio Grande) (kd) [1:18-mj-01581-SCY] (Entered: 05/08/2018)
05/08/2018	<u>5</u>	ORAL ORDER of Temporary Detention pending hearing as to Douglas D Smith by Magistrate Judge Steven C. Yarbrough (kd) [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] [1:18-mj-01581-SCY] (Entered: 05/08/2018)
05/09/2018	<u>7</u>	Clerk's Minutes before Magistrate Judge Steven C. Yarbrough: Preliminary/Detention Hearing as to Douglas D Smith held; Probable Cause found; deft released with conditions (Recording Info: Liberty - Rio Grande) (kd) [1:18-mj-01581-SCY] (Entered: 05/09/2018)
05/09/2018	<u>8</u>	ORDER Setting Conditions of Release by Magistrate Judge Steven C. Yarbrough. (eh) [1:18-mj-01581-SCY] (Entered: 05/09/2018)
05/18/2018	<u>9</u>	TRANSCRIPT of Proceedings as to Douglas D Smith held on May 9, 2018, before Magistrate Judge Steven C. Yarbrough. Court Reporter/Transcriber Exceptional Reporting Services, INC, Telephone number (361) 949-2988. Transcript may be viewed at the Clerk's Office public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. PLEASE TAKE NOTICE that each party now has seven (7) calendar days to file a Notice of Intent to Request Redaction of any personal identifiers from this transcript. If no notice is filed during this seven-day period, the court will assume that redaction of personal data is not necessary and will make the transcript electronically available, as

		<p>is, to the public after 90 days. For additional guidance, PLEASE REVIEW the complete policy, located in the CM/ECF Administrative Procedures Manual at www.nmcourt.fed.us.</p> <p>Notice of Intent to Request Redaction set for 5/25/2018. Redaction Request due 6/8/2018. Redacted Transcript Deadline set for 6/18/2018. Release of Transcript Restriction set for 8/16/2018.(jg) [1:18-mj-01581-SCY] (Entered: 05/18/2018)</p>
05/22/2018	<u>10</u>	MOTION to Continue <i>Grand Jury Presentment</i> by Douglas D Smith. (Jameson, Thomas) [1:18-mj-01581-SCY] (Entered: 05/22/2018)
05/30/2018	<u>11</u>	ORDER TO CONTINUE - Ends of Justice as to Douglas D Smith; Time excluded pursuant to 18:3161 by Magistrate Judge Karen B. Molzen. (eh) [1:18-mj-01581-SCY] (Entered: 05/30/2018)
06/12/2018	<u>12</u>	MOTION to Modify Conditions of Release by Douglas D Smith. (Jameson, Thomas) [1:18-mj-01581-SCY] (Entered: 06/12/2018)
06/25/2018	<u>13</u>	RESPONSE in Opposition by USA as to Douglas D Smith re <u>12</u> MOTION to Modify Conditions of Release (Wilson, Novaline) [1:18-mj-01581-SCY] (Entered: 06/25/2018)
07/02/2018	14	NOTICE OF HEARING as to Douglas D Smith: Bail/Bond Review Hearing set for 7/5/2018 at 02:00 PM in Albuquerque - 480 Chama Courtroom before Magistrate Judge Steven C. Yarbrough. (kd) [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] [1:18-mj-01581-SCY] (Entered: 07/02/2018)
07/03/2018	<u>15</u>	NOTICE OF ATTORNEY APPEARANCE: Aric G. Elsenheimer appearing for Douglas D Smith <i>as Co-Counsel</i> (Elsenheimer, Aric) [1:18-mj-01581-SCY] (Entered: 07/03/2018)
07/03/2018		Attorney update in case as to Douglas D Smith. Attorney Aric G. Elsenheimer for Douglas D Smith added. (kd) [1:18-mj-01581-SCY] (Entered: 07/05/2018)
07/05/2018	<u>18</u>	Clerk's Minutes before Magistrate Judge Steven C. Yarbrough: Bail/Bond Review Hearing as to Douglas D Smith held (Recording Info: Liberty - Chama) (kd) [1:18-mj-01581-SCY] (Entered: 07/05/2018)
07/05/2018	<u>19</u>	ORDER by Magistrate Judge Steven C. Yarbrough granting <u>12</u> Motion to Modify Conditions of Release as to Douglas D Smith (1) (kd) [1:18-mj-01581-SCY] (Entered: 07/05/2018)
08/21/2018	<u>20</u>	MOTION to Continue <i>Grand Jury Presentment</i> by Douglas D Smith. (Jameson, Thomas) [1:18-mj-01581-SCY] (Entered: 08/21/2018)
08/22/2018	<u>21</u>	ORDER TO CONTINUE - Ends of Justice as to Douglas D Smith; Time excluded pursuant to 18:3161 by Magistrate Judge Jerry H. Ritter (nm) [1:18-mj-01581-SCY] (Entered: 08/22/2018)
09/27/2018	<u>22</u>	NOTICE of Attorney Substitution: Aric G. Elsenheimer substituted for Thomas Jameson (Elsenheimer, Aric) [1:18-mj-01581-SCY] (Entered: 09/27/2018)
09/27/2018		Attorney update in case as to Douglas D Smith. Attorney Thomas B Jameson terminated. (kdh) [1:18-mj-01581-SCY] (Entered: 09/28/2018)
10/23/2018		Judge update in case as to Douglas D Smith. District Judge Judith C. Herrera added. (cl) (Entered: 10/24/2018)

10/23/2018	<u>24</u>	REDACTED INDICTMENT as to Douglas D Smith. (cl) (Entered: 10/24/2018)
10/24/2018	25	NOTICE OF HEARING as to Douglas D Smith: Arraignment set for 11/1/2018 at 09:30 AM in Albuquerque - 320 Rio Grande Courtroom before Magistrate Judge Jerry H. Ritter. (cl) [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (Entered: 10/24/2018)
10/29/2018	26	AMENDED NOTICE OF HEARING as to Douglas D Smith: Arraignment reset for 11/6/2018 at 09:30 AM in Albuquerque - 320 Rio Grande Courtroom before Magistrate Judge Jerry H. Ritter. (eh) [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (Entered: 10/29/2018)
11/06/2018	<u>27</u>	Clerk's Minutes for proceedings held before Magistrate Judge Jerry H. Ritter: Arraignment as to Douglas D Smith (1) Count 1 held on 11/6/2018 (Recording Info: RIO GRANDE @ 9:36 AM) (cl) (Entered: 11/06/2018)
11/06/2018	<u>28</u>	DISCOVERY ORDER as to Douglas D Smith by Magistrate Judge Jerry H. Ritter (cl) (Entered: 11/06/2018)
11/06/2018	<u>29</u>	WAIVER of Personal Appearance at Arraignment and Entry of Plea of Not Guilty by Douglas D Smith (kd) (Entered: 11/06/2018)
11/09/2018	<u>30</u>	NOTICE OF HEARING as to Douglas D Smith: Call of the Calendar set for 11/29/2018 at 01:30 PM in Albuquerque - 420 Mimbres Courtroom before District Judge Judith C. Herrera; AND Jury Selection/Trial set for 12/10/2018 at 09:00 AM in Albuquerque - 420 Mimbres Courtroom before District Judge Judith C. Herrera. (Attachments: # <u>1</u> pretrial deadlines)(id) (Entered: 11/09/2018)
11/14/2018	<u>31</u>	Unopposed MOTION to Continue <i>Jury Trial</i> by Douglas D Smith. (Elsenheimer, Aric) (Entered: 11/14/2018)
11/20/2018	<u>32</u>	Amended MOTION to Continue <i>Jury Trial</i> by Douglas D Smith. (Elsenheimer, Aric) (Entered: 11/20/2018)
11/26/2018	<u>33</u>	ORDER TO CONTINUE - Ends of Justice as to Douglas D Smith granting <u>32</u> Amended MOTION to Continue <i>Jury Trial</i> filed by Douglas D Smith by District Judge Judith C. Herrera. Call of the Calendar RESET for 3/7/2019 at 1:30 PM in Albuquerque - 420 Mimbres Courtroom before District Judge Judith C. Herrera. Jury Selection/Trial RESET for 3/18/2019 at 9:00 AM in Albuquerque - 420 Mimbres Courtroom before District Judge Judith C. Herrera. IT IS FURTHER ORDERED that the pretrial motion deadline is hereby extended until January 31, 2019. (Attachments: # <u>1</u> Pretrial Deadlines and Instructions)(gr) (Entered: 11/26/2018)
12/14/2018		U.S. Probation and Pretrial Services added as interested party.(Martinez-Spelich, Jeffrey) (Entered: 12/14/2018)
02/21/2019	<u>34</u>	Unopposed MOTION to Continue by Douglas D Smith. (Elsenheimer, Aric) (Entered: 02/21/2019)
02/26/2019	<u>35</u>	ORDER TO CONTINUE - Ends of Justice as to Douglas D Smith by District Judge Judith C. Herrera GRANTING: <u>34</u> Unopposed MOTION to Continue filed by Douglas D Smith. Call of the Calendar set for 7/11/2019 at 1:30 PM in Albuquerque - 420 Mimbres Courtroom before District Judge Judith C. Herrera. Jury Trial set for 7/22/2019 at 9:00 AM in Albuquerque - 420 Mimbres Courtroom before District Judge

		Judith C. Herrera; IT IS FURTHER ORDERED that the pretrial motion deadline is hereby extended until Thursday, June 20, 2019. (Attachments: # <u>1</u> Pretrial Deadlines & Instructions)(mjr) (Entered: 02/26/2019)
03/19/2019	<u>36</u>	NOTICE of Non-Availability June 4-21, 2019 by Douglas D Smith (Elsenheimer, Aric) (Entered: 03/19/2019)
04/09/2019	<u>37</u>	NOTICE OF ATTORNEY APPEARANCE: Amanda R. Lavin appearing for Douglas D Smith as co-counsel (Lavin, Amanda) (Entered: 04/09/2019)
07/03/2019	<u>38</u>	Unopposed MOTION to Continue <i>Trial Setting of July 22, 2019</i> by Douglas D Smith. (Elsenheimer, Aric) (Entered: 07/03/2019)
07/03/2019	<u>39</u>	ORDER TO CONTINUE - Ends of Justice as to Douglas D Smith by District Judge Judith C. Herrera GRANTING: <u>38</u> Unopposed MOTION to Continue <i>Trial Setting of July 22, 2019</i> filed by Douglas D Smith. Call of the Calendar set for 9/24/2019 at 1:30 PM in Albuquerque - 420 Mimbres Courtroom before District Judge Judith C. Herrera. Jury Trial set for 10/21/2019 at 9:00 AM in Albuquerque - 420 Mimbres Courtroom before District Judge Judith C. Herrera; IT IS FURTHER ORDERED that the pretrial motion deadline is hereby extended until Tuesday, September 03, 2019. (Attachments: # <u>1</u> Pretrial Deadlines & Instructions)(mjr) (Entered: 07/03/2019)
09/16/2019	<u>40</u>	Unopposed MOTION to Continue <i>Trial Setting of October 21, 2019</i> by Douglas D Smith. (Elsenheimer, Aric) (Entered: 09/16/2019)
09/18/2019	<u>41</u>	ORDER TO CONTINUE - Ends of Justice as to Douglas D Smith by District Judge Judith C. Herrera GRANTING: <u>40</u> Unopposed MOTION to Continue <i>Trial Setting of October 21, 2019</i> filed by Douglas D Smith. Call of the Calendar set for 12/5/2019 at 1:30 PM in Albuquerque - 420 Mimbres Courtroom before District Judge Judith C. Herrera. Jury Trial set for 12/16/2019 at 9:00 AM in Albuquerque - 420 Mimbres Courtroom before District Judge Judith C. Herrera; IT IS FURTHER ORDERED that the pretrial motion deadline is hereby extended until Thursday, November 14, 2019. (Attachments: # <u>1</u> Pretrial Deadlines & Instructions)(mjr) (Entered: 09/18/2019)
09/26/2019	<u>42</u>	NOTICE OF ATTORNEY APPEARANCE Kyle T Nayback appearing for USA. (Nayback, Kyle) (Entered: 09/26/2019)
11/27/2019	<u>43</u>	Unopposed MOTION to Continue <i>Trial Setting of December 16, 2019</i> by Douglas D Smith. (Elsenheimer, Aric) (Entered: 11/27/2019)
12/02/2019	<u>44</u>	ORDER TO CONTINUE - Ends of Justice as to Douglas D Smith granting <u>43</u> Unopposed MOTION to Continue <i>Trial Setting of December 16, 2019</i> filed by Douglas D Smith by District Judge Judith C. Herrera. Call of the Calendar reset for 3/5/2020 at 1:30 PM in Albuquerque - 420 Mimbres Courtroom before District Judge Judith C. Herrera. Jury Selection/Trial reset for 3/16/2020 at 9:00 AM in Albuquerque - 420 Mimbres Courtroom before District Judge Judith C. Herrera. IT IS FURTHER ORDERED that the pretrial motion deadline is hereby extended until Thursday, February 13, 2020. (Attachments: # <u>1</u> Pretrial Instructions and Deadlines)(gr) Modified on 12/3/2019 (emr). (Entered: 12/02/2019)
02/20/2020	<u>45</u>	Unopposed MOTION to Continue <i>Trial Setting of March 16, 2020</i> by Douglas D Smith. (Elsenheimer, Aric) (Entered: 02/20/2020)
02/21/2020	<u>46</u>	ORDER TO CONTINUE - Ends of Justice as to Douglas D Smith by District Judge Judith C. Herrera GRANTING: <u>45</u> Unopposed MOTION to Continue <i>Trial Setting of March 16, 2020</i> filed by Douglas D Smith. Call of the Calendar set for 5/7/2020 at

		1:30 PM in Albuquerque - 420 Mimbres Courtroom before District Judge Judith C. Herrera. Jury Trial set for 5/18/2020 at 9:00 AM in Albuquerque - 420 Mimbres Courtroom before District Judge Judith C. Herrera; IT IS FURTHER ORDERED that the pretrial motion deadline is hereby extended until Thursday, April 16, 2020. (Attachments: # <u>1</u> Pretrial Deadlines & Instructions)(mjr) (Entered: 02/21/2020)
04/03/2020	<u>47</u>	MOTION to Dismiss <i>for Lack of Federal Jurisdiction</i> by Douglas D Smith. (Attachments: # <u>1</u> Exhibit Alfred Lucero Land Entry Files, # <u>2</u> Exhibit SER Patent, # <u>3</u> Exhibit Gutierrez Order, # <u>4</u> Exhibit Pueblo Boundaries, # <u>5</u> Exhibit Rio Arriba County Clerk, # <u>6</u> Exhibit Property Record)(Elsenheimer, Aric) (Entered: 04/03/2020)
04/16/2020	<u>48</u>	Opposed MOTION to Exclude <i>Expert Witness Testimony of Theodore Chavez</i> by Douglas D Smith. (Elsenheimer, Aric) (Entered: 04/16/2020)
04/16/2020	<u>49</u>	Opposed MOTION to Suppress <i>Evidence</i> by Douglas D Smith. (Elsenheimer, Aric) (Entered: 04/16/2020)
04/16/2020	<u>50</u>	Opposed MOTION to Dismiss <i>Under Rule 12(b) for Insufficient Evidence</i> by Douglas D Smith. (Elsenheimer, Aric) (Entered: 04/16/2020)
04/16/2020	<u>51</u>	Opposed MOTION to Produce <i>Grand Jury Transcripts</i> by Douglas D Smith. (Elsenheimer, Aric) (Entered: 04/16/2020)
04/16/2020	<u>52</u>	APPENDIX/SUPPLEMENT re <u>51</u> Opposed MOTION to Produce <i>Grand Jury Transcripts</i> , <u>49</u> Opposed MOTION to Suppress <i>Evidence</i> , <u>50</u> Opposed MOTION to Dismiss <i>Under Rule 12(b) for Insufficient Evidence For Pretrial Motions</i> (Attachments: # <u>1</u> Exhibit A - Search Warrant, # <u>2</u> Exhibit B - Preliminary Hearing Transcript, # <u>3</u> Exhibit C - FBI Interview Transcript, # <u>4</u> Exhibit D - Appeal of Detention Hearing Transcript, # <u>5</u> Exhibit E - Det. Abeyta Interview Transcript, # <u>6</u> Exhibit F - Espanola Police Interview Transcript, # <u>7</u> Exhibit G - 911 Call Transcript) (Elsenheimer, Aric) (Entered: 04/16/2020)
04/16/2020	<u>53</u>	RESPONSE in Opposition by USA as to Douglas D Smith re <u>47</u> MOTION to Dismiss <i>for Lack of Federal Jurisdiction</i> (Attachments: # <u>1</u> Exhibit Land Status)(Wilson, Novaline) (Entered: 04/16/2020)
04/20/2020	<u>54</u>	NOTICE OF INTENT TO OFFER EXPERT WITNESS TESTIMONY by USA as to Douglas D Smith (Attachments: # <u>1</u> Exhibit Dr. Cain CV, # <u>2</u> Exhibit Dr. Cain Report, # <u>3</u> Exhibit Acee Resume and Report, # <u>4</u> Exhibit Chavez Resume and Report) (Wilson, Novaline) (Entered: 04/20/2020)
04/24/2020	<u>55</u>	MOTION for Extension of Time to File Response/Reply <i>and Extension of Time to File Motions In Limine</i> by USA as to Douglas D Smith. (Wilson, Novaline) (Entered: 04/24/2020)
04/27/2020	<u>56</u>	ORDER by District Judge Judith C. Herrera granting <u>55</u> Motion for Extension of Time to File Response as to Douglas D Smith (1); Response due on or before May 11, 2020; Motions in Limiine due on or before May 14, 2020. [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (emr) (Entered: 04/27/2020)
04/27/2020	<u>57</u>	"FILED IN ERROR" Will refile. MOTION in Limine <i>Defendant's Omnibus</i> by Douglas D Smith. (Fooks, Devon) Modified text on 4/27/2020 (bap). (Entered: 04/27/2020)

04/27/2020	<u>58</u>	MOTION in Limine <i>Defendant's Omnibus</i> by Douglas D Smith. (Elsenheimer, Aric) (Entered: 04/27/2020)
04/29/2020	<u>59</u>	ORDER TO CONTINUE - Ends of Justice as to Douglas D Smith by District Judge Judith C. Herrera. Call of the Calendar set for 6/4/2020 at 1:30 PM in Albuquerque - 420 Mimbres Courtroom before District Judge Judith C. Herrera. Jury Trial set for 6/15/2020 at 9:00 AM in Albuquerque - 420 Mimbres Courtroom before District Judge Judith C. Herrera; IT IS FURTHER ORDERED that the pretrial motion deadline is hereby extended until Thursday, May 14, 2020. (Attachments: # <u>1</u> Pretrial Deadlines & Instructions)(mjr) (Entered: 04/29/2020)
04/30/2020	<u>60</u>	REPLY TO RESPONSE to Motion by Douglas D Smith re <u>47</u> MOTION to Dismiss <i>for Lack of Federal Jurisdiction</i> (Elsenheimer, Aric) (Entered: 04/30/2020)
04/30/2020	<u>61</u>	RESPONSE in Opposition by USA as to Douglas D Smith re <u>50</u> Opposed MOTION to Dismiss <i>Under Rule 12(b) for Insufficient Evidence</i> (Attachments: # <u>1</u> Exhibit Diagrams)(Wilson, Novaline) (Entered: 04/30/2020)
05/06/2020	<u>62</u>	MOTION in Limine <i>First Motion in Limine</i> by USA as to Douglas D Smith. (Wilson, Novaline) (Entered: 05/06/2020)
05/06/2020	<u>63</u>	MOTION in Limine <i>for Lafler-Frye Hearing</i> by USA as to Douglas D Smith. (Wilson, Novaline) (Entered: 05/06/2020)
05/06/2020	<u>64</u>	MOTION in Limine <i>to Prohibit Discussion of Sentencing or Punishment at Trial</i> by USA as to Douglas D Smith. (Wilson, Novaline) (Entered: 05/06/2020)
05/06/2020	<u>65</u>	MOTION in Limine <i>for Pre-Trial Determination of Indian Country Land Status</i> by USA as to Douglas D Smith. (Attachments: # <u>1</u> Exhibit Land Status Cert)(Wilson, Novaline) (Entered: 05/06/2020)
05/06/2020	<u>66</u>	MOTION in Limine <i>to Exclude Self-Serving, Inadmissible Hearsay, and Irrelevant, Prejudicial Statements</i> by USA as to Douglas D Smith. (Attachments: # <u>1</u> Exhibit Tx of Arrest, # <u>2</u> Exhibit Tx of Espanola PD Int, # <u>3</u> Exhibit Tx of FBI Int)(Wilson, Novaline) (Entered: 05/06/2020)
05/06/2020	<u>67</u>	NOTICE of Intent to Introduce Evidence Pursuant to Fed. R. Evid. 404(b) by USA as to Douglas D Smith (Wilson, Novaline) (Entered: 05/06/2020)
05/06/2020	<u>68</u>	MOTION in Limine <i>to Exclude Self-Defense, Defense of Another, or Justification by Preventing Commission of a Felony</i> by USA as to Douglas D Smith. (Wilson, Novaline) (Entered: 05/06/2020)
05/11/2020	<u>69</u>	RESPONSE in Opposition by USA as to Douglas D Smith re <u>51</u> Opposed MOTION to Produce <i>Grand Jury Transcripts</i> (Wilson, Novaline) (Entered: 05/11/2020)
05/11/2020	<u>70</u>	RESPONSE in Opposition by USA as to Douglas D Smith re <u>48</u> Opposed MOTION to Exclude <i>Expert Witness Testimony of Theodore Chavez</i> (Wilson, Novaline) (Entered: 05/11/2020)
05/11/2020	<u>71</u>	RESPONSE to Motion by USA as to Douglas D Smith re <u>58</u> MOTION in Limine <i>Defendant's Omnibus</i> (Attachments: # <u>1</u> Exhibit One, # <u>2</u> Exhibit Two, # <u>3</u> Exhibit Three)(Nayback, Kyle) (Entered: 05/11/2020)

05/11/2020	<u>72</u>	RESPONSE in Opposition by USA as to Douglas D Smith re <u>49</u> Opposed MOTION to Suppress <i>Evidence</i> (Attachments: # <u>1</u> Exhibit SW & Affidavit, # <u>2</u> Exhibit Chavez Material)(Wilson, Novaline) (Entered: 05/11/2020)
05/13/2020	<u>73</u>	MOTION in Limine to <i>Admit Use of Demonstrative Exhibit During Trial</i> by USA as to Douglas D Smith. (Attachments: # <u>1</u> Exhibit Photos of Model)(Nayback, Kyle) (Entered: 05/13/2020)
05/13/2020	<u>74</u>	MOTION in Limine to <i>Permit Evidence, Impeachment, and Argument Regarding Defendant's Failure to Claim Self-Defense or Defense of Others at the Crime Scene</i> by USA as to Douglas D Smith. (Wilson, Novaline) (Entered: 05/13/2020)
05/13/2020	<u>75</u>	MOTION in Limine to <i>Prohibit Evidence and Argument About the Quality of the Investigation</i> by USA as to Douglas D Smith. (Wilson, Novaline) (Entered: 05/13/2020)
05/13/2020	<u>76</u>	Unopposed MOTION to Continue <i>Trial Setting of June 15, 2020</i> by Douglas D Smith. (Elsenheimer, Aric) (Entered: 05/13/2020)
05/14/2020	<u>77</u>	NOTICE of Intent to Offer Defendant's Recorded Statements in its Case-in-Chief by USA as to Douglas D Smith (Wilson, Novaline) (Entered: 05/14/2020)
05/26/2020	<u>78</u>	ORDER TO CONTINUE - Ends of Justice as to Douglas D Smith by District Judge Judith C. Herrera GRANTING: <u>76</u> Unopposed MOTION to Continue <i>Trial Setting of June 15, 2020</i> filed by Douglas D Smith. Call of the Calendar set for 9/10/2020 at 1:30 PM in Albuquerque - 420 Mimbres Courtroom before District Judge Judith C. Herrera. Jury Trial set for 9/21/2020 at 9:00 AM in Albuquerque - 420 Mimbres Courtroom before District Judge Judith C. Herrera; IT IS FURTHER ORDERED that the pretrial motion deadline is hereby extended until Thursday, August 20, 2020. (Attachments: # <u>1</u> Pretrial Deadlines & Instructions)(mjr) (Entered: 05/26/2020)
05/26/2020	79	NOTICE - responses currently due shall be filed on or before July 15, 2020 with replies due 2 weeks later; replies currently due shall be filed on or before July 15, 2020. [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (emr) (Entered: 05/26/2020)
07/09/2020	<u>80</u>	Unopposed MOTION for Extension of Time to File Response/Reply (<i>from July 15, 2020 to July 29, 2020</i>) by Douglas D Smith. (Elsenheimer, Aric) (Entered: 07/09/2020)
07/14/2020	81	ORDER by District Judge Judith C. Herrera granting <u>80</u> Motion for Extension of Time to File Response/Reply as to Douglas D Smith (1); Response/Reply due on or before July 29, 2020. [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (emr) (Entered: 07/14/2020)
07/29/2020	<u>82</u>	REPLY TO RESPONSE to Motion by Douglas D Smith re <u>50</u> Opposed MOTION to Dismiss <i>Under Rule 12(b) for Insufficient Evidence Govt's Response (Doc. 61)</i> (Elsenheimer, Aric) (Entered: 07/29/2020)
07/29/2020	<u>83</u>	REPLY TO RESPONSE to Motion by Douglas D Smith re <u>51</u> Opposed MOTION to Produce <i>Grand Jury Transcripts Govt's Response (Doc. 69)</i> (Elsenheimer, Aric) (Entered: 07/29/2020)

07/29/2020	<u>84</u>	REPLY TO RESPONSE to Motion by Douglas D Smith re <u>48</u> Opposed MOTION to Exclude <i>Expert Witness Testimony of Theodore Chavez Govt's Response (Doc. 70)</i> (Elsenheimer, Aric) (Entered: 07/29/2020)
07/29/2020	<u>85</u>	REPLY TO RESPONSE to Motion by Douglas D Smith re <u>58</u> MOTION in Limine <i>Defendant's Omnibus (Govt's Response (Doc. 71))</i> (Elsenheimer, Aric) (Entered: 07/29/2020)
07/29/2020	<u>86</u>	RESPONSE to Motion by Douglas D Smith re <u>74</u> MOTION in Limine <i>to Permit Evidence, Impeachment, and Argument Regarding Defendant's Failure to Claim Self-Defense or Defense of Others at the Crime Scene</i> (Elsenheimer, Aric) (Entered: 07/29/2020)
07/29/2020	<u>87</u>	RESPONSE to Motion by Douglas D Smith re <u>66</u> MOTION in Limine <i>to Exclude Self-Serving, Inadmissible Hearsay, and Irrelevant, Prejudicial Statements</i> (Elsenheimer, Aric) (Entered: 07/29/2020)
07/29/2020	<u>88</u>	RESPONSE to Motion by Douglas D Smith re <u>68</u> MOTION in Limine <i>to Exclude Self-Defense, Defense of Another, or Justification by Preventing Commission of a Felony</i> (Elsenheimer, Aric) (Entered: 07/29/2020)
07/29/2020	<u>89</u>	RESPONSE to Motion by Douglas D Smith re <u>75</u> MOTION in Limine <i>to Prohibit Evidence and Argument About the Quality of the Investigation</i> (Elsenheimer, Aric) (Entered: 07/29/2020)
07/29/2020	<u>90</u>	RESPONSE to Motion by Douglas D Smith re <u>65</u> MOTION in Limine <i>for Pre-Trial Determination of Indian Country Land Status</i> (Elsenheimer, Aric) (Entered: 07/29/2020)
07/29/2020	<u>91</u>	RESPONSE to Motion by Douglas D Smith re <u>62</u> MOTION in Limine <i>First Motion in Limine</i> (Elsenheimer, Aric) (Entered: 07/29/2020)
07/29/2020	<u>92</u>	RESPONSE to Motion by Douglas D Smith re <u>63</u> MOTION in Limine <i>for Lafler-Frye Hearing</i> (Elsenheimer, Aric) (Entered: 07/29/2020)
07/29/2020	<u>93</u>	RESPONSE to Motion by Douglas D Smith re <u>64</u> MOTION in Limine <i>to Prohibit Discussion of Sentencing or Punishment at Trial</i> (Elsenheimer, Aric) (Entered: 07/29/2020)
07/29/2020	<u>94</u>	RESPONSE by Douglas D Smith re <u>77</u> Notice (Other) <i>To Offer Defendant's Recorded Statements</i> (Elsenheimer, Aric) (Entered: 07/29/2020)
07/29/2020	<u>95</u>	Unopposed MOTION for Extension of Time to File Response/Reply as to <u>72</u> Response in Opposition, <u>73</u> MOTION in Limine <i>to Admit Use of Demonstrative Exhibit During Trial</i> , <u>67</u> Notice (Other) <i>(until August 7, 2020 for Defendant and August 21, 2020 for the government)</i> by Douglas D Smith. (Lavin, Amanda) (Entered: 07/29/2020)
07/30/2020	96	ORDER by District Judge Judith C. Herrera granting <u>95</u> Motion for Extension of Time to File Response/Reply as to Douglas D Smith (1). [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (emr) (Entered: 07/30/2020)
08/06/2020	<u>97</u>	NOTICE of Filing Supplemental Exhibits to United States' Response to Defendant's Motion to Dismiss for Lack of Subject Matter Jurisdiction by USA as to Douglas D Smith re <u>53</u> Response in Opposition (Attachments: # <u>1</u> Exhibit Boundary Map, # <u>2</u> Exhibit Plat Map, # <u>3</u> Exhibit Letter from Governor)(Wilson, Novaline) (Entered: 08/06/2020)

		08/06/2020)
08/07/2020	98	<p>NOTICE OF HEARING ON MOTION in case as to Douglas D Smith: <u>47</u> MOTION to Dismiss <i>for Lack of Federal Jurisdiction</i> set for 8/25/2020 at 10:00 AM in Remote via Zoom before District Judge Judith C. Herrera. (emr)</p> <p>NOTE:</p> <p>1. This proceeding will be held via Zoom Video/Web Conferencing with all participants appearing remotely; the Zoom ID and Passcode will be provided separately to the participants email address of record.</p> <p>2. Participants should connect to the proceeding 15 minutes prior its scheduled start time to allow time for trouble-shooting of any connectivity issues.</p> <p>3. To ensure the record is of the best quality participants are encouraged to utilize a headset to reduce static and background noise; if not using a headset participants must ensure the audio feed at their location is muted when not speaking.</p> <p>*** REMINDER: Recording or broadcasting of this hearing is prohibited. ***</p> <p>[THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (Entered: 08/07/2020)</p>
08/07/2020	<u>99</u>	RESPONSE by Douglas D Smith re <u>67</u> Notice (Other) of Intent To Introduce Evidence Pursuant to Federal Rule of Evidence 404(b) (Lavin, Amanda) (Entered: 08/07/2020)
08/07/2020	<u>100</u>	REPLY TO RESPONSE to Motion by USA as to Douglas D Smith re <u>68</u> MOTION in Limine to Exclude Self-Defense, Defense of Another, or Justification by Preventing Commission of a Felony (Nayback, Kyle) (Entered: 08/07/2020)
08/07/2020	<u>101</u>	REPLY TO RESPONSE to Motion by USA as to Douglas D Smith re <u>75</u> MOTION in Limine to Prohibit Evidence and Argument About the Quality of the Investigation (Wilson, Novaline) (Entered: 08/07/2020)
08/07/2020	<u>102</u>	REPLY TO RESPONSE to Motion by USA as to Douglas D Smith re <u>64</u> MOTION in Limine to Prohibit Discussion of Sentencing or Punishment at Trial (Wilson, Novaline) (Entered: 08/07/2020)
08/07/2020	<u>103</u>	RESPONSE to Motion by Douglas D Smith re <u>73</u> MOTION in Limine to Admit Use of Demonstrative Exhibit During Trial (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Exhibit H)(Lavin, Amanda) (Entered: 08/07/2020)
08/07/2020	<u>104</u>	REPLY TO RESPONSE to Motion by USA as to Douglas D Smith re <u>65</u> MOTION in Limine for Pre-Trial Determination of Indian Country Land Status (Wilson, Novaline) (Entered: 08/07/2020)
08/07/2020	<u>105</u>	REPLY TO RESPONSE to Motion by Douglas D Smith re <u>49</u> Opposed MOTION to Suppress Evidence (Lavin, Amanda) (Entered: 08/07/2020)

08/12/2020	<u>106</u>	REPLY TO RESPONSE to Motion by USA as to Douglas D Smith re <u>66</u> MOTION in Limine to Exclude Self-Serving, Inadmissible Hearsay, and Irrelevant, Prejudicial Statements (Nayback, Kyle) (Entered: 08/12/2020)
08/20/2020	<u>107</u>	REPLY TO RESPONSE to Motion by USA as to Douglas D Smith re <u>73</u> MOTION in Limine to Admit Use of Demonstrative Exhibit During Trial (Wilson, Novaline) (Entered: 08/20/2020)
08/20/2020	<u>108</u>	REPLY by USA as to Douglas D Smith re <u>99</u> Response (Wilson, Novaline) (Entered: 08/20/2020)
08/25/2020	<u>109</u>	Clerk's Minutes for proceedings held before District Judge Judith C. Herrera: Motion Hearing as to Douglas D Smith held on 8/25/2020 re <u>47</u> MOTION to Dismiss for Lack of Federal Jurisdiction filed by Douglas D Smith (Court Reporter: P. Baca) (mjr) (Entered: 08/25/2020)
08/27/2020	<u>110</u>	MEMORANDUM OPINION AND ORDER by District Judge Judith C. Herrera; IT IS ORDERED that Defendant's Motion to Dismiss for Lack of Federal Jurisdiction <u>47</u> is DENIED. (mjr) (Entered: 08/27/2020)
08/27/2020	<u>111</u>	MEMORANDUM OPINION AND ORDER by District Judge Judith C. Herrera; IT IS ORDERED that the United States' Motion in Limine for Pre-Trial Determination of Indian Country Land Status <u>65</u> is GRANTED. (mjr) (Entered: 08/27/2020)
08/28/2020	<u>112</u>	MOTION in Limine to Exclude Undue Reference to Victim's Prior Criminal History and Substance Abuse by USA as to Douglas D Smith. (Wilson, Novaline) (Entered: 08/28/2020)
09/01/2020	<u>113</u>	Unopposed MOTION to Extend (other) Deadline to File Jury Instructions by Douglas D Smith. (Elsenheimer, Aric) (Entered: 09/01/2020)
09/02/2020	<u>114</u>	WAIVER of Personal Presence at Hearing by Douglas D Smith (Elsenheimer, Aric) (Entered: 09/02/2020)
09/02/2020	<u>115</u>	Proposed Jury Instructions by USA as to Douglas D Smith (Wilson, Novaline) (Entered: 09/02/2020)
09/09/2020	<u>116</u>	ORDER vacating Call of the Calendar as to Douglas D Smith by District Judge Judith C. Herrera. A Status Conference will be scheduled at a later date. THIS IS A TEXT ONLY ENTRY. NO OTHER DOCUMENTS ARE ATTACHED. (emr) (Entered: 09/09/2020)
09/09/2020	<u>117</u>	RESPONSE to Motion by Douglas D Smith re <u>112</u> MOTION in Limine to Exclude Undue Reference to Victim's Prior Criminal History and Substance Abuse (Elsenheimer, Aric) (Entered: 09/09/2020)
09/10/2020	<u>118</u>	ORDER TO CONTINUE - Ends of Justice as to Douglas D Smith by District Judge Judith C. Herrera; IT IS ORDERED that the Call of Calendar hearing of September 10, 2020 and the Jury Selection/Trial of September 21, 2020 and corresponding trial deadlines are VACATED. (mjr) (Entered: 09/10/2020)
09/14/2020	<u>119</u>	WITNESS LIST by USA as to Douglas D Smith (Wilson, Novaline) (Entered: 09/14/2020)
09/14/2020	<u>120</u>	EXHIBIT LIST by USA as to Douglas D Smith (Wilson, Novaline) (Entered: 09/14/2020)

09/14/2020	<u>121</u>	Proposed Voir Dire by USA as to Douglas D Smith (Wilson, Novaline) (Entered: 09/14/2020)
09/23/2020	<u>122</u>	MEMORANDUM OPINION AND ORDER by District Judge Judith C. Herrera; IT IS ORDERED that Defendant's Motion to Exclude Expert Witness Testimony of Theodore Chavez <u>48</u> is DENIED based on Rule 16 concerns, but the Court will RESERVE RULING on the Daubert issues and hold a hearing on Rule 702 issues. (mjr) (Entered: 09/23/2020)
09/23/2020	<u>123</u>	MEMORANDUM OPINION AND ORDER by District Judge Judith C. Herrera; IT IS THEREFORE ORDERED that Defendant's Motion to Suppress Evidence <u>49</u> is DENIED. (mjr) (Entered: 09/23/2020)
09/23/2020	<u>124</u>	MEMORANDUM OPINION AND ORDER by District Judge Judith C. Herrera; IT IS ORDERED that Defendant's Motion to Dismiss under Rule 12(b) for Insufficient Evidence <u>50</u> and Defendant's Motion for Production of Grand Jury Transcripts <u>51</u> are DENIED. (mjr) (Entered: 09/23/2020)
09/23/2020	<u>125</u>	REPLY TO RESPONSE to Motion by USA as to Douglas D Smith re <u>112</u> MOTION in Limine to Exclude Undue Reference to Victim's Prior Criminal History and Substance Abuse (Wilson, Novaline) (Entered: 09/23/2020)
09/29/2020	<u>126</u>	<p>TRANSCRIPT of Proceedings, Motion Hearing, as to Douglas D Smith held on AUGUST 25, 2020, before District Judge Judith C. Herrera. Court Reporter/Transcriber Paul Baca, Telephone number (505) 843-9241. Transcript may be viewed at the Clerk's Office public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER.</p> <p>PLEASE TAKE NOTICE that each party now has seven (7) calendar days to file a Notice of Intent to Request Redaction of any personal identifiers from this transcript. If no notice is filed during this seven-day period, the court will assume that redaction of personal data is not necessary and will make the transcript electronically available, as is, to the public after 90 days. For additional guidance, PLEASE REVIEW the complete policy, located in the CM/ECF Administrative Procedures Manual at https://www.nmd.uscourts.gov.</p> <p>Notice of Intent to Request Redaction set for 10/6/2020. Redaction Request due 10/20/2020. Redacted Transcript Deadline set for 10/30/2020. Release of Transcript Restriction set for 12/28/2020.(pb) (Entered: 09/29/2020)</p>
10/09/2020	127	<p>NOTICE OF HEARING ON MOTIONS in case as to Douglas D Smith: <u>48</u> Motion to Exclude Expert Witness Testimony; <u>66</u> Motion in Limine to Exclude Self-Serving, Inadmissible Hearsay, and Irrelevant, Prejudicial Statements; <u>67</u> Notice of Intent to Introduce Evidence Pursuant to Fed. R. Evid. 404(b); <u>68</u> MOTION in Limine to Exclude Self-Defense, Defense of Another, or Justification by Preventing Commission of a Felony, <u>73</u> MOTION in Limine to Admit Use of Demonstrative Exhibit During Trial and <u>77</u> United States' Notice of Intent to Offer Defendant's Recorded Statements in its Case-in-Chief set for 11/5/2020 at 09:00 AM in Remote via Zoom before District Judge Judith C. Herrera. (emr)</p> <p>NOTE:</p>

		<p>1. This proceeding will be held via Zoom Video/Web Conferencing with all participants appearing remotely; the Zoom ID and Passcode will be provided separately to the participants email address of record.</p> <p>2. Participants should connect to the proceeding 15 minutes prior its scheduled start time to allow time for trouble-shooting of any connectivity issues.</p> <p>3. To ensure the record is of the best quality participants are encouraged to utilize a headset to reduce static and background noise; if not using a headset participants must ensure the audio feed at their location is muted when not speaking.</p> <p>*** REMINDER: Recording or broadcasting of this hearing is prohibited. ***</p> <p>[THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (Entered: 10/09/2020)</p>
10/29/2020	<u>128</u>	<p>NOTICE of Filing Exhibits for November 5, 2020 Hearing Regarding Daubert and Rule 702 Issues on Denial of Defendant's Motion to Exclude Expert Witness Testimony of Theodore Chavez (Doc. 48) by USA as to Douglas D Smith (Attachments: # <u>1</u> Exhibit Chavez CV, # <u>2</u> Exhibit PPT re Trajectory Analysis, # <u>3</u> Exhibit FBI Diagram re Lab Response, # <u>4</u> Exhibit LSRT Info, # <u>5</u> Exhibit Chavez Lab Report, # <u>6</u> Exhibit Trajectory Graphic)(Wilson, Novaline) (Entered: 10/29/2020)</p>
10/29/2020	<u>129</u>	<p>NOTICE of Filing Superseding Exhibits in Support of its Motion in Limine to Admit Use of Demonstrative Exhibit at Trial (Doc. 73) by USA as to Douglas D Smith re <u>73</u> MOTION in Limine to Admit Use of Demonstrative Exhibit During Trial (Attachments: # <u>1</u> Exhibit Photo-Top of 3D Model, # <u>2</u> Exhibit Photo-Side of 3D Model, # <u>3</u> Exhibit Photo-Closeup of 3D Model)(Wilson, Novaline) (Entered: 10/29/2020)</p>
10/29/2020	<u>130</u>	<p>NOTICE (Sealed) of Filing Superseding Exhibits in Support of Motion in Limine to Exclude Self-Serving, Inadmissible Hearsay, and Irrelevant, Prejudicial Statements (Doc. 66), and Notice of Intent to Offer Recorded Statements in Govt's Case-in-Chief (Doc. 77) by USA as to Douglas D Smith (Attachments: # <u>1</u> Exhibit Tx of 5-5-18 Arrest, # <u>2</u> Exhibit Tx of 5-5-18 EPD Interview, # <u>3</u> Exhibit Tx of 5-7-18 FBI Interview)(Wilson, Novaline) (Entered: 10/29/2020)</p>
11/05/2020	<u>131</u>	<p>Clerk's Minutes for proceedings held before District Judge Judith C. Herrera: Motion Hearing as to Douglas D Smith held on 11/5/2020 re <u>68</u> MOTION in Limine to Exclude Self-Defense, Defense of Another, or Justification by Preventing Commission of a Felony filed by USA, <u>48</u> Opposed MOTION to Exclude Expert Witness Testimony of Theodore Chavez filed by Douglas D Smith, <u>73</u> MOTION in Limine to Admit Use of Demonstrative Exhibit During Trial filed by USA, and <u>66</u> MOTION in Limine to Exclude Self-Serving, Inadmissible Hearsay, and Irrelevant, Prejudicial Statements filed by USA. (Court Reporter: Paul Baca) (gr) (Entered: 11/05/2020)</p>
11/15/2020	<u>132</u>	<p>NOTICE (Sealed) of Filing of Second Superseding Exhibits in Support of Motion in Limine to Exclude Self-Serving, Inadmissible Hearsay, and Irrelevant, Prejudicial Statements (Doc. 66), and Notice of Intent to Offer Recorded Statements in Govt's Case-in-Chief (Doc. 77) by USA as to Douglas D Smith (Attachments: # <u>1</u> Exhibit Tx of 5-5-18 Arrest, # <u>2</u> Exhibit Tx of 5-5-18 EPD Interview, # <u>3</u> Exhibit 5-7-18 FBI</p>

		Interview)(Wilson, Novaline) (Entered: 11/15/2020)
11/19/2020	<u>133</u>	Unopposed MOTION for Extension of Time to File Response/Reply as to <u>132</u> Notice (Other), by Douglas D Smith. (Elsenheimer, Aric) (Entered: 11/19/2020)
11/19/2020	134	ORDER by District Judge Judith C. Herrera granting <u>133</u> Motion for Extension of Time to File Response as to Douglas D Smith (1). [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (emr) (Entered: 11/19/2020)
12/02/2020	<u>135</u>	RESPONSE by Douglas D Smith re <u>132</u> Notice (Other), <i>Government's Notice of Filing of Second Superseding Exhibits</i> (Attachments: # <u>1</u> Exhibit A - Initial Encounter Transcript, # <u>2</u> Exhibit B - Abeyta Interview Transcript, # <u>3</u> Exhibit C - FBI Interview Transcript)(Elsenheimer, Aric) (Entered: 12/02/2020)
12/16/2020	<u>136</u>	MOTION for Order <i>For Statewide Jury Pool and Supplemental Jury Questionnaire</i> by Douglas D Smith. (Attachments: # <u>1</u> Exhibit A - Supplemental Juror Questionnaire, # <u>2</u> Exhibit B - Santa Fe New Mexican 5/5/2018, # <u>3</u> Exhibit C - Santa Fe New Mexican 5/6/2018, # <u>4</u> Exhibit D - Santa Fe New Mexican 5/8/2018, # <u>5</u> Exhibit E - Albuquerque Journal 5/7/2018, # <u>6</u> Exhibit F - Rio Grande Sun 5/10/2018, # <u>7</u> Exhibit G - KRQE News 13 5/6/2018, # <u>8</u> Exhibit H - KKOB 96.3 New Radio 5/9/2018, # <u>9</u> Exhibit I - KOB News 4 5/8/2018, # <u>10</u> Exhibit J - KOAT New 7 5/8/2018) (Elsenheimer, Aric) (Entered: 12/16/2020)
12/16/2020	<u>137</u>	Unopposed MOTION for Extension of Time to File Response/Reply as to <u>136</u> MOTION for Order <i>For Statewide Jury Pool and Supplemental Jury Questionnaire</i> by USA as to Douglas D Smith. (Wilson, Novaline) (Entered: 12/16/2020)
12/17/2020	<u>138</u>	ORDER by District Judge Judith C. Herrera granting <u>137</u> Motion for Extension of Time to File Response. (mjr) (Entered: 12/17/2020)
12/18/2020	<u>139</u>	<p>TRANSCRIPT of Proceedings as to Douglas D Smith held on NOVEMBER 5, 2020, before District Judge Judith C. Herrera. Court Reporter/Transcriber Paul Baca, Telephone number (505) 843-9241. Transcript may be viewed at the Clerk's Office public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER.</p> <p>PLEASE TAKE NOTICE that each party now has seven (7) calendar days to file a Notice of Intent to Request Redaction of any personal identifiers from this transcript. If no notice is filed during this seven-day period, the court will assume that redaction of personal data is not necessary and will make the transcript electronically available, as is, to the public after 90 days. For additional guidance, PLEASE REVIEW the complete policy, located in the CM/ECF Administrative Procedures Manual at https://www.nmd.uscourts.gov.</p> <p>Notice of Intent to Request Redaction set for 12/28/2020. Redaction Request due 1/8/2021. Redacted Transcript Deadline set for 1/19/2021. Release of Transcript Restriction set for 3/18/2021.(pb) (Entered: 12/18/2020)</p>
01/15/2021	<u>140</u>	RESPONSE in Opposition by USA as to Douglas D Smith re <u>136</u> MOTION for Order <i>For Statewide Jury Pool and Supplemental Jury Questionnaire</i> (Wilson, Novaline) (Entered: 01/15/2021)

02/16/2021	<u>141</u>	SEALED MEMORANDUM OPINION AND ORDER by District Judge Judith C. Herrera; Defendant's motion to exclude expert testimony of Theodore Chavez <u>48</u> is DENIED; Defendant's Omnibus Motion in Limine <u>58</u> is GRANTED IN PART AND DENIED IN PART; The United States' First Motion in Limine <u>62</u> is GRANTED IN PART AND DENIED IN PART; United States' Motion for a Lafler-Frye Hearing <u>63</u> is GRANTED; United States' Motion in Limine to Prohibit Discussion of Sentencing or Punishment at Trial <u>64</u> is GRANTED; United States' Sealed Motion in Limine to Exclude Self-Serving, Inadmissible Hearsay, and Irrelevant, Prejudicial Statements <u>66</u> is GRANTED IN PART; United States' Notice of Intent to Introduce Evidence Pursuant to Federal Rule of Evidence 404(b) <u>67</u> is GRANTED IN PART AND DENIED IN PART; The Court will RESERVE RULING until trial on the United States' Motion in Limine to Exclude Self-Defense, Defense of Another, or Justification by Preventing Commission of a Felony <u>68</u> ; United States' Motion in Limine to Admit Use of Demonstrative Exhibit During Trial <u>73</u> is DENIED; The United States' Motion in Limine to Prohibit Evidence and Argument about the Quality of the Investigation <u>75</u> is denied; The Court will RESERVE RULING on the United States' Notice of Intent to Offer Defendant's Recorded Statements in its Case- in-Chief <u>77</u> until it holds a hearing on the matter; United States' Sealed Motion in Limine to Exclude Undue Reference to Victim's Prior Criminal History and Substance Abuse <u>112</u> is GRANTED.(mjr) (Entered: 02/16/2021)
02/24/2021	<u>142</u>	MEMORANDUM OPINION AND ORDER by District Judge Judith C. Herrera; IT IS ORDERED that Defendant's Motion for Statewide Jury Pool and Supplemental Jury Questionnaire <u>136</u> is DENIED. (mjr) (Entered: 02/24/2021)
02/26/2021	143	<p>NOTICE OF HEARING as to Douglas D Smith: United States Notice of Intent to Offer Defendants Recorded Statements in its Case-in-Chief [Doc. 77] and United States Sealed Motion in Limine to Exclude Self-Serving, Inadmissible Hearsay, and Irrelevant, Prejudicial Statements [Doc. 66] specifically whether Defendants statement in the 911 call is admissible under the excited utterance exception set for 3/16/2021 at 09:00 AM in Remote via Zoom before District Judge Judith C. Herrera. (emr)</p> <p>NOTE:</p> <ol style="list-style-type: none">1. This proceeding will be held via Zoom Video/Web Conferencing with all participants appearing remotely; the Zoom ID and Passcode will be provided separately to the participants email address of record.2. Participants should connect to the proceeding 15 minutes prior its scheduled start time to allow time for trouble-shooting of any connectivity issues.3. To ensure the record is of the best quality participants are encouraged to utilize a headset to reduce static and background noise; if not using a headset participants must ensure the audio feed at their location is muted when not speaking. <p>*** REMINDER: Recording or broadcasting of this hearing is prohibited. ***</p> <p>[THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (Entered: 02/26/2021)</p>

03/16/2021	<u>144</u>	Clerk's Minutes for proceedings held before District Judge Judith C. Herrera: Motion Hearing held on 3/16/2021 re <u>66</u> MOTION in Limine to Exclude Self-Serving, Inadmissible Hearsay, and Irrelevant, Prejudicial Statements filed by USA. (Court Reporter: P. Baca) (mjr) (Entered: 03/16/2021)
03/23/2021	<u>145</u>	NOTICE of Lodging by Douglas D Smith (Elsenheimer, Aric) (Entered: 03/23/2021)
04/07/2021	<u>146</u>	<p>NOTICE OF HEARING as to Douglas D Smith: Status Conference set for 5/13/2021 at 10:30 AM in Remote via Zoom before District Judge Judith C. Herrera. (emr)</p> <p>NOTE:</p> <ol style="list-style-type: none"> 1. This proceeding will be held via Zoom Video/Web Conferencing with all participants appearing remotely; the Zoom ID and Passcode will be provided separately to the participants email address of record. 2. Participants should connect to the proceeding 15 minutes prior its scheduled start time to allow time for trouble-shooting of any connectivity issues. 3. To ensure the record is of the best quality participants are encouraged to utilize a headset to reduce static and background noise; if not using a headset participants must ensure the audio feed at their location is muted when not speaking. <p>*** REMINDER: Recording or broadcasting of this hearing is prohibited. ***</p> <p>[THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (Entered: 04/07/2021)</p>
04/15/2021	<u>147</u>	WAIVER of Personal Presence at Hearing by Douglas D Smith (Elsenheimer, Aric) (Entered: 04/15/2021)
04/23/2021	<u>148</u>	SEALED MEMORANDUM OPINION AND ORDER by District Judge Judith C. Herrera; IT IS ORDERED that the United States' Sealed Motion in Limine to Exclude Self-Serving, Inadmissible Hearsay, and Irrelevant, Prejudicial Statements <u>66</u> is GRANTED IN PART and DENIED IN PART. (mjr) (Entered: 04/23/2021)
05/13/2021	<u>149</u>	Clerk's Minutes for proceedings held before District Judge Judith C. Herrera: Call of the Calendar as to Douglas D Smith held on 5/13/2021. (Court Reporter: P. Baca) (mjr) (Entered: 05/13/2021)
05/13/2021	<u>150</u>	WITNESS LIST by Douglas D Smith (Elsenheimer, Aric) (Entered: 05/13/2021)
05/13/2021	<u>151</u>	NOTICE OF HEARING as to Douglas D Smith: Jury Selection/Jury Trial set for 6/14/2021 at 09:00 AM in Albuquerque - 320 Rio Grande Courtroom before District Judge Judith C. Herrera. (Attachments: # <u>1</u> Supplement)(emr) (Entered: 05/13/2021)
05/17/2021	<u>152</u>	Proposed Jury Instructions by Douglas D Smith (Elsenheimer, Aric) (Entered: 05/17/2021)
05/17/2021	<u>153</u>	EXHIBIT LIST by Douglas D Smith (Elsenheimer, Aric) (Entered: 05/17/2021)
05/17/2021	<u>154</u>	Proposed Voir Dire by Douglas D Smith (Elsenheimer, Aric) (Entered: 05/17/2021)

05/20/2021	<u>155</u>	(Ex Parte) Ex Parte MOTION for Order <i>for Free Process</i> by Douglas D Smith. (Elsenheimer, Aric) (Entered: 05/20/2021)
05/20/2021	<u>156</u>	EXHIBIT LIST by Douglas D Smith (Elsenheimer, Aric) (Entered: 05/20/2021)
05/20/2021	<u>157</u>	MOTION for Order <i>for video testimony based on witness unavailability</i> by Douglas D Smith. (Attachments: # <u>1</u> Exhibit A - Grand Jury Transcript)(Elsenheimer, Aric) (Entered: 05/20/2021)
05/20/2021	<u>158</u>	SEALED EX PARTE ORDER by District Judge Judith C. Herrera granting <u>155</u> Ex Parte MOTION for Order for Free Process as to Douglas D Smith (1). (gr) (Entered: 05/20/2021)
05/26/2021	<u>160</u>	ORDER by District Judge Judith C. Herrera; IT IS ORDERED that the parties may submit in writing any information or evidence regarding the admissibility of the 9-1-1 call to the Court on or before JUNE 2, 2021. (mjr) (Entered: 05/26/2021)
05/27/2021	<u>161</u>	RESPONSE by USA as to Douglas D Smith <i>proposed Voir Dire</i> (Nayback, Kyle) (Entered: 05/27/2021)
05/28/2021	<u>162</u>	Proposed Jury Instructions by USA as to Douglas D Smith (Wilson, Novaline) (Entered: 05/28/2021)
05/28/2021	<u>163</u>	Opposed MOTION for Order <i>to permit evidence of Jane Doe's intoxication</i> by Douglas D Smith. (Elsenheimer, Aric) (Entered: 05/28/2021)
05/28/2021	<u>164</u>	RESPONSE in Opposition by USA as to Douglas D Smith re <u>157</u> MOTION for Order <i>for video testimony based on witness unavailability</i> (Attachments: # <u>1</u> Exhibit Tx of 5-18-18 Interview of Ercilia Trujillo)(Wilson, Novaline) (Entered: 05/28/2021)
06/02/2021	<u>165</u>	REPLY TO RESPONSE to Motion by Douglas D Smith re <u>157</u> MOTION for Order <i>for video testimony based on witness unavailability</i> (Elsenheimer, Aric) (Entered: 06/02/2021)
06/02/2021	<u>166</u>	RESPONSE by USA as to Douglas D Smith re <u>160</u> Order (Wilson, Novaline) (Entered: 06/02/2021)
06/02/2021	<u>167</u>	NOTICE of United States' Objections to Defendant's Proposed Jury Instructions (Doc. 152) by USA as to Douglas D Smith re <u>152</u> Proposed Jury Instructions (Wilson, Novaline) (Entered: 06/02/2021)
06/02/2021	<u>168</u>	RESPONSE by Douglas D Smith re <u>160</u> Order (Elsenheimer, Aric) (Entered: 06/02/2021)
06/03/2021	<u>169</u>	RESPONSE to Motion by USA as to Douglas D Smith re <u>163</u> Opposed MOTION for Order <i>to permit evidence of Jane Doe's intoxication</i> (Nayback, Kyle) (Entered: 06/03/2021)
06/04/2021	<u>170</u>	APPENDIX/SUPPLEMENT re <u>157</u> MOTION for Order <i>for video testimony based on witness unavailability Exh B - Letter unable to travel</i> (Attachments: # <u>1</u> Exhibit B - Letter unable to travel)(Elsenheimer, Aric) (Entered: 06/04/2021)
06/04/2021	<u>171</u>	RESPONSE by Douglas D Smith re <u>167</u> Notice (Other) <i>Government's Objections to Mr. Smith's Jury Instructions</i> (Elsenheimer, Aric) (Entered: 06/04/2021)
06/07/2021	<u>172</u>	(Ex Parte) Ex Parte MOTION for Order <i>for Free Process</i> by Douglas D Smith. (Elsenheimer, Aric) (Entered: 06/07/2021)

06/07/2021	<u>173</u>	MOTION for Disclosure of <i>Exculpatory Material</i> by Douglas D Smith. (Elsenheimer, Aric) (Entered: 06/07/2021)
06/07/2021	<u>174</u>	MINUTE ORDER as to Douglas D Smith by District Judge Judith C. Herrera: Government's response to Defendant's MOTION for Disclosure of Exculpatory Material <u>173</u> is due by Wednesday, June 9, 2021. (emr) [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (Entered: 06/07/2021)
06/07/2021	<u>175</u>	SEALED EX PARTE ORDER by District Judge Judith C. Herrera granting <u>172</u> Motion for Order for Free Process as to Douglas D Smith (1). See order for specifics. (gr) (Entered: 06/07/2021)
06/07/2021	<u>176</u>	EXHIBIT LIST by USA as to Douglas D Smith (Wilson, Novaline) (Entered: 06/07/2021)
06/07/2021	<u>177</u>	WITNESS LIST by USA as to Douglas D Smith (Wilson, Novaline) (Entered: 06/07/2021)
06/07/2021	<u>179</u>	REPLY by Douglas D Smith re <u>161</u> Response <i>Government's Response to Defendant's Proposed Voir Dire</i> (Elsenheimer, Aric) (Entered: 06/07/2021)
06/07/2021	<u>180</u>	EXHIBIT LIST by Douglas D Smith (Elsenheimer, Aric) (Entered: 06/07/2021)
06/07/2021	<u>181</u>	NOTICE <i>Objections to Government's Exhibits</i> by Douglas D Smith (Elsenheimer, Aric) (Entered: 06/07/2021)
06/07/2021	<u>182</u>	Proposed Voir Dire by Douglas D Smith (Elsenheimer, Aric) (Entered: 06/07/2021)
06/07/2021	<u>183</u>	WITNESS LIST by Douglas D Smith (Elsenheimer, Aric) (Entered: 06/07/2021)
06/09/2021	<u>184</u>	RESPONSE in Opposition by USA as to Douglas D Smith re <u>173</u> MOTION for Disclosure of <i>Exculpatory Material</i> (Wilson, Novaline) (Entered: 06/09/2021)
06/09/2021	<u>185</u>	RESPONSE by USA as to Douglas D Smith <i>United States Objections to Defendants Second Amended Exhibit List (Doc. 180) and Amended Witness List (Doc. 183) and Motion to Exclude Inadmissible Exhibits and Irrelevant Testimony</i> (Wilson, Novaline) (Entered: 06/09/2021)
06/10/2021	<u>186</u>	MEMORANDUM OPINION AND ORDER by District Judge Judith C. Herrera; IT IS ORDERED that filed Mr. Smith's motion to permit evidence of Jane Doe's intoxication <u>163</u> is DENIED. (mjr) (Entered: 06/10/2021)
06/10/2021	<u>187</u>	SEALED MEMORANDUM OPINION AND ORDER by District Judge Judith C. Herrera; IT IS ORDERED that Mr. Smith's Sealed Motion for Video Testimony Based on Witness Unavailability <u>157</u> is GRANTED to the extent that the Court will permit the defense to present the testimony of Ercilia G. Trujillo at trial by Zoom video conference. (mjr) (Entered: 06/10/2021)
06/10/2021	<u>188</u>	SEALED MEMORANDUM OPINION AND ORDER by District Judge Judith C. Herrera; IT IS ORDERED that the United States' Sealed Motion in Limine to Exclude Self-Serving, Inadmissible Hearsay, and Irrelevant, Prejudicial Statements <u>66</u> is GRANTED IN PART as follows: the Court will exclude the statements Defendant made in his 9-1-1 call under the rule against hearsay. (mjr) (Entered: 06/10/2021)
06/10/2021	<u>189</u>	(Ex Parte) MOTION for Order for <i>Free Process</i> by Douglas D Smith. (Elsenheimer, Aric) (Entered: 06/10/2021)

06/10/2021	<u>190</u>	EX PARTE ORDER by District Judge Judith C. Herrera granting <u>189</u> Motion for Order. (mjr) (Entered: 06/10/2021)
06/10/2021	<u>191</u>	RESPONSE by USA as to Douglas D Smith re <u>182</u> Proposed Voir Dire (Nayback, Kyle) (Entered: 06/10/2021)
06/11/2021	<u>193</u>	REPLY by Douglas D Smith re <u>191</u> Response (Elsenheimer, Aric) (Entered: 06/11/2021)
06/11/2021	<u>194</u>	**FILED IN ERROR** NOTICE <i>Objection to governments exhibit 35</i> by Douglas D Smith (Elsenheimer, Aric) Modified as per Rowan assistant to attorney on 6/11/2021 (jjs). (Entered: 06/11/2021)
06/11/2021	<u>195</u>	NOTICE <i>Objection to governments exhibit 35</i> by Douglas D Smith (Elsenheimer, Aric) (Entered: 06/11/2021)
06/11/2021	<u>196</u>	NOTICE <i>of Response to Defendant's Objection to Government's Exhibit 35</i> by USA as to Douglas D Smith re <u>195</u> Notice (Other) (Wilson, Novaline) (Entered: 06/11/2021)
06/13/2021	<u>197</u>	EXHIBIT LIST by Douglas D Smith (Elsenheimer, Aric) (Entered: 06/13/2021)
06/14/2021	<u>198</u>	NOTICE OF HEARING WITH VIDEO STREAMING as to Douglas D Smith: Jury Selection/Jury Trial set for 6/14/2021 at 09:00 AM thru 6/17/2021 at 09:00 AM in Albuquerque - 320 Rio Grande Courtroom before District Judge Judith C. Herrera. (emr) This hearing will be available for remote viewing by video stream. Please visit the Court's website at www.nmd.uscourts.gov for information and instructions to connect. [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (Entered: 06/14/2021)
06/14/2021	<u>200</u>	Clerk's Minutes for proceedings held before District Judge Judith C. Herrera: Jury Trial begins on 6/14/2021 and concludes on 6/18/2021. (Court Reporter: P. Baca) (Attachments: # <u>1</u> Exhibit and Witness List) (mjr) (Entered: 06/22/2021)
06/15/2021	<u>199</u>	MEMORANDUM OPINION AND ORDER by District Judge Judith C. Herrera; IT IS ORDERED that Defendant's Motion for Disclosure of Exculpatory Material <u>173</u> is DENIED. (mjr) (Entered: 06/15/2021)
06/17/2021	<u>201</u>	Court's Jury Instructions as to Douglas D Smith by District Judge Judith C. Herrera (mjr) (Entered: 06/22/2021)
06/18/2021	<u>203</u>	Jury Note as to Douglas D Smith (mjr) (Entered: 06/22/2021)
06/18/2021	<u>205</u>	JURY VERDICT (mjr) (Entered: 06/22/2021)
06/23/2021	<u>206</u>	RETURN OF EXHIBITS to counsel (mjr) (Entered: 06/24/2021)
09/30/2021	<u>207</u>	PRESENTENCE INVESTIGATION REPORT as to Douglas D Smith (Attachments: # <u>1</u> Victim Impact Statement and Photo, # <u>2</u> Attachment A) (Ortiz y Martinez, Ana) (Entered: 09/30/2021)
10/14/2021	<u>209</u>	OBJECTION TO PRESENTENCE INVESTIGATION REPORT by USA as to Douglas D Smith (Attachments: # <u>1</u> Exhibit Transcript of Def's Trial Testimony)(Wilson, Novaline) (Entered: 10/14/2021)

10/21/2021	<u>210</u>	Unopposed MOTION to Extend (other) <i>Deadline to File Objections to Presentence Report and Sentencing Memorandum</i> by Douglas D Smith. (Elsenheimer, Aric) (Entered: 10/21/2021)
10/21/2021	211	ORDER by District Judge Judith C. Herrera granting <u>210</u> Motion to Extend Deadline to File Objections to Presentence Report and Sentencing Memorandum as to Douglas D Smith (1). [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (emr) (Entered: 10/21/2021)
11/02/2021	<u>212</u>	Unopposed MOTION for Extension of Time to File <i>Objections to Presentence Report and Sentencing Memorandum</i> by Douglas D Smith. (Elsenheimer, Aric) (Entered: 11/02/2021)
11/02/2021	213	ORDER by District Judge Judith C. Herrera granting <u>212</u> Motion for Extension of Time to File Objections to PSR as to Douglas D Smith (1). [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (emr) (Entered: 11/02/2021)
06/09/2022	214	NOTICE OF HEARING as to Douglas D Smith: Sentencing set for 9/15/2022 at 09:30 AM in Albuquerque - 340 Pecos Courtroom before District Judge Judith C. Herrera. Briefing due on or before August 29, 2022.(emr) [THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (Entered: 06/09/2022)
08/16/2022	<u>215</u>	OBJECTION TO PRESENTENCE INVESTIGATION REPORT by Douglas D Smith (Elsenheimer, Aric) (Entered: 08/16/2022)
08/29/2022	<u>216</u>	SENTENCING MEMORANDUM by USA as to Douglas D Smith (Wilson, Novaline) (Entered: 08/29/2022)
09/01/2022	<u>217</u>	SENTENCING MEMORANDUM by Douglas D Smith (Elsenheimer, Aric) (Entered: 09/01/2022)
09/08/2022	<u>218</u>	RESPONSE by Douglas D Smith re <u>216</u> Sentencing Memorandum (Elsenheimer, Aric) (Entered: 09/08/2022)
09/08/2022	<u>219</u>	SENTENCING MEMORANDUM by Douglas D Smith (Attachments: # <u>1</u> Supplement Character Letters (3))(Elsenheimer, Aric) (Entered: 09/08/2022)
09/09/2022	<u>220</u>	2nd PRESENTENCE INVESTIGATION REPORT (Revised Presentence Report) as to Douglas D Smith (Attachments: # <u>1</u> Attachment A) (Ortiz y Martinez, Ana) (Entered: 09/09/2022)
09/09/2022	<u>222</u>	ADDENDUM TO PRESENTENCE INVESTIGATION REPORT as to Douglas D Smith Related Documents: <u>220</u> PSR - Presentence Report (Ortiz y Martinez, Ana) (Entered: 09/09/2022)
09/12/2022	<u>223</u>	SENTENCING MEMORANDUM by Douglas D Smith (Attachments: # <u>1</u> Supplement Character Letters (2))(Elsenheimer, Aric) (Entered: 09/12/2022)
09/15/2022	<u>224</u>	Clerk's Minutes for proceedings held before District Judge Judith C. Herrera: Sentencing Hearing Continued as to Douglas D Smith held on 9/15/2022. (Court Reporter: Paul Baca) (gr) (Entered: 09/15/2022)

09/16/2022	<u>225</u>	(Ex Parte) Ex Parte MOTION for Order <i>To Release Presentence Report</i> by Douglas D Smith. (Elsenheimer, Aric) (Entered: 09/16/2022)
09/19/2022	<u>226</u>	SEALED EX PARTE ORDER by District Judge Judith C. Herrera granting <u>225</u> Motion for Order as to Douglas D Smith (1). IT IS HEREBY ORDERED that the defense may release Ms. Smith's Presentence Report to any experts retained by the defense. (gr) (Entered: 09/19/2022)
10/04/2022	<u>227</u>	<p>TRANSCRIPT of Proceedings, Sentencing Hearing as to Douglas D Smith held on 9/15/2022, before District Judge Judith C. Herrera. Court Reporter/Transcriber Paul Baca, Telephone number 505-508-6694. Transcript may be viewed at the Clerk's Office public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER.</p> <p>PLEASE TAKE NOTICE that each party now has seven (7) calendar days to file a Notice of Intent to Request Redaction of any personal identifiers from this transcript. If no notice is filed during this seven-day period, the court will assume that redaction of personal data is not necessary and will make the transcript electronically available, as is, to the public after 90 days. For additional guidance, PLEASE REVIEW the complete policy, located in the CM/ECF Administrative Procedures Manual at https://www.nmd.uscourts.gov.</p> <p>Notice of Intent to Request Redaction set for 10/11/2022. Redaction Request due 10/25/2022. Redacted Transcript Deadline set for 11/4/2022. Release of Transcript Restriction set for 1/2/2023.(mkl) (Entered: 10/04/2022)</p>
10/07/2022	<u>228</u>	Supplemental MOTION for Downward Departure <i>or Variance</i> by Douglas D Smith. (Attachments: # <u>1</u> Declaration of Phillip S. Wise, # <u>2</u> Medical Records)(Elsenheimer, Aric) (Entered: 10/07/2022)
10/12/2022	229	<p>NOTICE OF HEARING as to Douglas D Smith: Sentencing set for 11/10/2022 at 01:30 PM in Albuquerque - 340 Pecos Courtroom before District Judge Judith C. Herrera. (emr)</p> <p>[THIS IS A TEXT-ONLY ENTRY. THERE ARE NO DOCUMENTS ATTACHED.] (Entered: 10/12/2022)</p>
10/21/2022	<u>230</u>	RESPONSE in Opposition by USA as to Douglas D Smith re <u>228</u> Supplemental MOTION for Downward Departure <i>or Variance</i> (Attachments: # <u>1</u> Exhibit Ophthalmology Guidance, # <u>2</u> Exhibit Managing Inmates with Disabilities, # <u>3</u> Exhibit Designation, # <u>4</u> Exhibit Patient Care, # <u>5</u> Exhibit Health Services Administration, # <u>6</u> Exhibit Care Level Classification, # <u>7</u> Exhibit Aging Offenders, # <u>8</u> Exhibit Inmates with Disabilities, # <u>9</u> Exhibit FSA Approved Programs)(Wilson, Novaline) (Entered: 10/21/2022)
11/01/2022	<u>231</u>	3rd PRESENTENCE INVESTIGATION REPORT as to Douglas D Smith (Ortiz y Martinez, Ana) (Entered: 11/01/2022)
11/01/2022	<u>232</u>	<p>2nd ADDENDUM TO PRESENTENCE INVESTIGATION REPORT as to Douglas D Smith (Attachments: # <u>1</u> Medical Record)</p> <p>Related Documents: <u>231</u> PSR - Presentence Report (Ortiz y Martinez, Ana) (Entered: 11/01/2022)</p>

11/10/2022	<u>233</u>	Clerk's Minutes for proceedings held before District Judge Judith C. Herrera: Sentencing held on 11/10/2022 for Douglas D Smith (1), Count(s) 1, SENTENCE IMPOSED: CBOP: 27 months; Supervised Release: 2 years, with Special Conditions; SPA: \$100. (Court Reporter: Paul Baca) (gr) (Entered: 11/16/2022)
11/17/2022	<u>234</u>	JUDGMENT as to Douglas D Smith by District Judge Judith C. Herrera (emr) (Entered: 11/17/2022)
11/28/2022	<u>235</u>	NOTICE OF APPEAL by Douglas D Smith re <u>234</u> Judgment (Filing Fee - Waived) (Elsenheimer, Aric) (Entered: 11/28/2022)
11/29/2022	<u>236</u>	Transmission of Preliminary Record as to Douglas D Smith to US Court of Appeals re <u>235</u> Notice of Appeal - Final Judgment. (Attachments: # <u>1</u> Preliminary Record on Appeal)(gr) (Entered: 11/29/2022)
11/29/2022	<u>237</u>	USCA Information Letter with Case Number as to Douglas D Smith USCA 22-2142 for <u>235</u> Notice of Appeal - Final Judgment filed by Douglas D Smith. (gr) (Entered: 11/29/2022)

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